

2003 ASSEMBLY BILL 833

AN ACT *to amend* 343.16 (1) (a), 343.16 (1) (b) (intro.), 343.16 (1) (b) 2., 343.16 (1) (b) 3. (intro.), 343.16 (1) (b) 4. and 343.16 (1) (b) 5. of the statutes; **relating to:** permitting third-party testers to administer driving skills tests for certain noncommercial motor vehicle drivers and audit of the Department of Transportation.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 343.16 (1) (a) of the statutes, as affected by 2003 Wisconsin Act 33,
2 is amended to read:
3 343.16 **(1)** (a) *General.* The Except when examination by a 3rd-party tester is
4 permitted under pars. (b) and (c), the department shall examine every applicant for
5 an operator's license, including applicants for license renewal as provided in sub. (3),

ASSEMBLY BILL 833**SECTION 1**

1 and every applicant for authorization to operate a vehicle class or type for which the
2 applicant does not hold currently valid authorization, other than an instruction
3 permit. Except as provided in sub. (2) (cm) and (e), the examinations of applicants
4 for licenses authorizing operation of “Class A”, “Class B”, “Class C”, “Class D” or
5 “Class M” vehicles shall include both a knowledge test and an actual demonstration
6 in the form of a driving skills test of the applicant’s ability to exercise ordinary and
7 reasonable control in the operation of a representative vehicle. The department shall
8 not administer a driving skills test to a person applying for authorization to operate
9 “Class M” vehicles who has failed 2 previous such skills tests unless the person has
10 successfully completed a rider course approved by the department. The department
11 may, by rule, exempt certain persons from the rider course requirement of this
12 paragraph. The driving skills of applicants for endorsements authorizing the
13 operation of commercial motor vehicles equipped with air brakes, the transportation
14 of passengers in commercial motor vehicles or the operation of school buses, as
15 provided in s. 343.04 (2) (b), (d) or (e), shall also be tested by an actual demonstration
16 of driving skills. The department may endorse an applicant’s commercial driver
17 license for transporting hazardous materials requiring placarding or any quantity
18 of a material listed as a select agent or toxin under 42 CFR 73, subject to s. 343.125,
19 or for the operation of tank vehicles or vehicles towing double or triple trailers, as
20 described in s. 343.04 (2) (a), (c) or (f), based on successful completion of a knowledge
21 test. In administering the knowledge test, the department shall attempt to
22 accommodate any special needs of the applicant. Except as may be required by the
23 department for an “H” or “S” endorsement, the knowledge test is not intended to be
24 a test for literacy or English language proficiency. This paragraph does not prohibit

ASSEMBLY BILL 833

1 the department from requiring an applicant to correctly read and understand
2 highway signs.

3 **SECTION 2.** 343.16 (1) (b) (intro.) of the statutes is amended to read:

4 343.16 **(1)** (b) *Third-party testing.* (intro.) The department may contract with
5 a person, including an agency or department of this state or its political subdivisions
6 or another state, or a private employer of commercial motor vehicle drivers, to
7 administer commercial motor vehicle skills tests required by 49 CFR 383.110 to
8 383.135, examinations required to be administered under s. 343.12 (2) (h) and,
9 abbreviated driving skills tests required by sub. (3) (b), or driving skills tests
10 required by par. (a) for authorization to operate “Class D” vehicles, or any
11 combination of these tests and examinations. The department may not enter into
12 such testing contracts with a private driver training school or other private
13 institution except a private employer of commercial motor vehicle drivers. A contract
14 with a 3rd-party tester shall include all of the following provisions:

15 **SECTION 3.** 343.16 (1) (b) 2. of the statutes is amended to read:

16 343.16 **(1)** (b) 2. The department, ~~the federal highway administration~~ or its
17 representative, or the federal highway administration with respect to testing for
18 commercial driver licenses, may conduct random examinations, inspections, and
19 audits of the 3rd-party tester without any prior notice.

20 **SECTION 4.** 343.16 (1) (b) 3. (intro.) of the statutes is amended to read:

21 343.16 **(1)** (b) 3. (intro.) At least annually, the department shall conduct an
22 on-site inspection of the 3rd-party tester to determine compliance with the contract
23 and with department and federal standards for testing applicants for commercial
24 driver licenses and with department standards for testing applicants for school bus
25 endorsements and applicants for operators’ licenses to operate “Class D” vehicles.

ASSEMBLY BILL 833**SECTION 4**

1 At least annually, the department shall also evaluate testing given by the 3rd-party
2 tester by one of the following means:

3 **SECTION 5.** 343.16 (1) (b) 4. of the statutes is amended to read:

4 343.16 (1) (b) 4. Examiners of the 3rd-party tester shall meet the same
5 qualifications and training standards as the department's license examiners to the
6 extent established by the department as necessary to satisfactorily perform the skills
7 tests required by 49 CFR 383.110 to 383.135, examinations required to be
8 administered under s. 343.12 (2) (h) ~~and, abbreviated driving skills tests required by~~
9 ~~sub. (3) (b), and driving skills tests required by par. (a) for authorization to operate~~
10 "Class D" vehicles.

11 **SECTION 6.** 343.16 (1) (b) 5. of the statutes is amended to read:

12 343.16 (1) (b) 5. The department shall take prompt and appropriate remedial
13 action against the 3rd-party tester in the event that the tester fails to comply with
14 department or federal standards for commercial driver license testing, department
15 standards for school bus endorsement testing or testing for operators' licenses to
16 operate "Class D" vehicles, or any provision of the contract. Such action may include
17 immediate termination of testing by the 3rd-party tester and recovery of damages.

18 **SECTION 7g. Nonstatutory provisions.**

19 (1) The legislative audit bureau shall perform an audit of the department of
20 transportation's expenditures of revenues received from applications for the original
21 issuance and renewal of, and from administration of knowledge tests and driving
22 skills tests related to, operators' licenses authorizing operation of "Class D" vehicles.
23 The legislative audit bureau shall file its report, in the manner described under
24 section 13.94 (1) (b) of the statutes, no later than June 29, 2005.

25 **SECTION 7r. Effective date.**

1 (1) This act takes effect on the day after the legislative audit bureau files its
2 report as specified in SECTION 7g (1) of this act.

3 (END)